

REMARKS

Favorable consideration of this Application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-4 are pending in the present Application. No new matter has been added.

By way of summary, the Official Action presents the following issues: Claims 1-4 stand rejected under 35 U.S.C. § 103 as being unpatentable over Dworkin (U.S. Patent Publication No. 2002/0071,540).

FINAL ACTION IS PREMATURE

Preliminary to filing a petition under 37 C.F.R. § 1.181 seeking withdrawal of the outstanding Final Rejection as premature,¹ Applicants provide the following discussion for facilitating supervisory review of the finality of the Official Action dated April 27, 2005 in accordance with MPEP § 706.07 (d).

In response to Applicants' amendment filed February 2, 2005, the Official Action in the section entitled "Response to Arguments" asserts:

Applicants arguments filed February 2, 2005 have been fully considered but they are not persuasive . . . chat space is available at the time of purchasing (0016, 0019, 0025, 0026) with live distribution of streaming content (0027).

However, Applicants' Claim 1 recites, *inter alia*, an information processing apparatus, including:

a supply unit configured to supply the whole or a part of the contents of chatting performed in the chat space to the first terminal.

Nowhere in the Official Action is there discussion of the cited reference relative to the above claim language. As such, the "final" Office Action of April 27, 2005 does not include a proper rebuttal of Applicants' positions with regard to the cited reference

¹ See MPEP 706.07 (c)

outlined in the response of February 2, 2005. In this regard the MPEP states “. . . [W]here a single previous Office Action contains a complete statement of a ground of rejection, the final rejection may refer to such a statement and also should include a rebuttal of any arguments raised in the Applicants’ reply” (See MPEP § 706.07(a)) (emphasis added). The MPEP requires that all actions on the merits issued by the Office Action should be complete and clear.² The MPEP further requires that “[W]here the applicants traverse any rejection, the examiner should, if he or she repeats the rejection, take note of the applicants’ argument and answer the substance of it” (See MPEP § 707.07(f)).

Due to the Official Action’s complete omission as to the above-cited language, the necessary rebuttal has not been provided in the Official Action of April 27, 2005. Therefore, the grounds of rejection have not been clearly developed to such an extent that the Applicants can readily judge the advisability of an appeal.

Accordingly, Applicants respectfully submit that the finality of the Official Action dated April 27, 2005 is premature and should be withdrawn in the next communication. Applicants respectfully request that the substance of the February 2, 2005 Amendment be answered in detail in a non-final Office Action, so that Applicants may have the opportunity to reply completely; and, therefore substantially reiterates the arguments of the last Amendment below.

REJECTION UNDER 35 U.S.C. § 103

The Official Action has rejected Claims 1-4 under 35 U.S.C. § 103 as being obvious in view of Dworkin (U.S. Patent Application Publication No. 2002/0071,540). The Official Action states that Dworkin discloses all the Applicants’ claim limitations with the exception

² See MPEP § 707.07.

of generating chats based at a predetermined time. However, the Official Action takes official notice that it would have been obvious to one of ordinary skill in the art at the time the invention was made to generate chat space at a predetermined time. Applicants respectfully traverse the rejection.

Claim 1 recites, *inter alia*, an information processing apparatus, including:

. . . a generation unit configured to generate the chat space corresponding to the reservation at a predetermined time prior to a distribution start time designated by the reservation;
a providing unit configured to provide the chat space to the first terminal and the second terminal designated to be distributed by the first terminal; and
a supply unit configured to supply the whole or a part of the contents of chatting performed in the chat space to the first terminal (emphasis added).

Dworkin describes an application service provider environment for providing a distributed conferencing configuration. As shown in Fig. 1 of this reference, the configuration (99) includes a plurality of users (100A-100F) employing the Internet (104). Conferencing resources (112) include both hardware and software components, which are hosted and managed by a conferencing application service provider (110).³

In operation, the users (100) may employ the services of the conferencing configuration to facilitate distribution of data and video conferencing without the expense and overhead associated with owning and maintaining their own conference resources. For example, an individual user (100A) would register with the application service provider (ASP) and be provided with an application program interface (API) to receive the necessary software for support facilitating communication with the provider. Likewise, the user may use third-party instant messaging software to communicate with other users. In addition, the ASP may employ a messaging utility (122), such that upon registration, a user downloads an

³ Dworkin at paragraph 14.

instant messaging plug-in for use with a user interface (100B). In this way, the user can initiate a conference by inviting other instant messaging participants registered with the ASP.⁴

Conversely, in an exemplary embodiment of Applicants' invention, a live distribution service for streaming contents to users is provided in accordance with a reservation made in advance. In operation, a user, such as a personal computer (3), provides contents for distribution according to a reservation to a streaming server (5). Personal computers (4-1 - 4-3) receive the streaming contents from the streaming server according to the reservation made by the personal computer (3).⁵ During the delivery of the streaming content, a chat space is created corresponding to the reservation of the streaming distribution. In this way, the chat space is automatically generated to be coincident with the delivery of the streaming content.

Moreover, as the chat space is available coincident to a streaming distribution based on reservations, the present invention further provides a supply unit, which supplies the whole, or part, of the contents of chatting performed in the chat space to the first terminal. In other words, the entirety of all conversations performed during the streaming may be delivered to a single user. One application of such a transcript supply would be a mechanism to inform users who were unable to participate in the presentation of the discussion between participants during the streaming presentation. Applicants note that the Official Actions of November 2, 2004 and April 27, 2005 are entirely silent with regard to this claimed feature and Dworkin is not cited as disclosing this more detailed aspect of the Applicants' invention. In this regard, it well established that each word of every claim must be given weight. (*See In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970).

⁴ Dworkin at paragraphs 16-17.

⁵ Application at page 8.

Finally, with regard to the deficiency noted of Dworkin in the rejection under 35 U.S.C. § 103, it appears that the Official Action is taking official notice without providing a citation in support of its assertion.

If official notice is being taken, Applicants respectfully submit that official notice alone is not permissible as grounds for rejection in the outstanding Official Action. As stated in the MPEP at § 2144.03(A):

It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21.

With regard to the above, Applicants respectfully submit that the feature of a chat space being created at a predetermined time prior to a distribution start time recited in Claims 1-4 is not “capable of instant and unquestionable demonstration as being well-known.”

Accordingly, for all of the reasons outlined above, Applicants respectfully submit that the Final Action of April 27, 2005 is premature; and, nevertheless, Claims 1 and 2-4, patently define over Dworkin; and, Applicants respectfully request that the rejection of Claims 1-4 under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

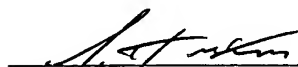
Should the above distinctions be found unpersuasive, Applicants respectfully request that the Examiner provide an explanation via Advisory Action pursuant to MPEP § 714.13 specifically rebutting the points raised herein for purposes of facilitating the appeal process.

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present Application, including Claims 1-4, is patently distinguished over

the prior art, in condition for allowance, and such action is respectfully requested at an early date.

Respectfully submitted,

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